

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

HOWARD WEAR,)
)
 Plaintiff,) Civil No. 3:06-1173
 v.) Judge Trauger
)
 WARRIORS BOXING PROMOTION, INC.,)
)
 Defendant.)

MEMORANDUM and ORDER

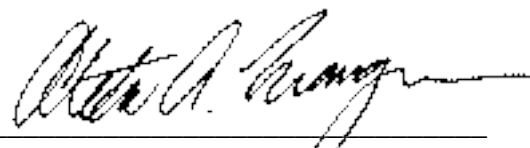
The plaintiff has failed to have new counsel enter an appearance on his behalf by May 7, 2007. Further, he has failed to file his notice of intention to pursue this case *pro se* by the same deadline. This deadline was set in an Order entered by the court on April 10, 2007 (Docket No. 44), wherein the plaintiff was warned that his failure to comply with that Order might well lead to the dismissal of his case for failure to prosecute. The plaintiff has not only lost touch with his former counsel, who has been allowed to withdraw, but he is not available at the only address known to his former counsel or to the court. (See Docket Nos. 47, 48)

It is clear that the plaintiff has lost interest in this case, perhaps because he senses the merit of the defendant's Motion to Dismiss for Lack of Jurisdiction, which this court has set for an evidentiary hearing. The prejudice to the defendant of the "disappearance" of the plaintiff is obvious. The plaintiff has been warned. The court cannot advance this case without deciding the jurisdictional issue, and it cannot do that without the presence of the plaintiff. Dismissal is warranted. *See Mulbah v. Detroit Bd. Of Educ.*, 261 F.3d 586, 589 (6th Cir. 2001).

For the reasons expressed herein, it is hereby **ORDERED** that this case is **DISMISSED** under Rule 41(b), FED.R.CIV.P., for failure to prosecute. The evidentiary hearing scheduled for August 20, 2007 at 10:00 a.m. is **CANCELLED**.

It is so **ORDERED**.

ENTER this 14th day of May 2007.



ALETA A. TRAUGER
U.S. District Judge